

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Parts 103, 212, 274

CIS No. 2572-15; DHS Docket No. USCIS-2015-0006

RIN 1615-AC04

Removal of International Entrepreneur Parole Program

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Department of Homeland Security (DHS) is withdrawing a proposed rule that published on May 29, 2018. The NPRM had proposed removing DHS regulations pertaining to the international entrepreneur parole program. Those regulations guide the adjudication of significant public benefit parole requests made by certain noncitizen entrepreneurs of start-up entities in the United States.

DATES: DHS withdraws the proposed rule published May 29, 2018 at 83 FR 24415 as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The docket for this withdrawn proposed rule is available at http://www.regulations.gov. Please search for docket number USCIS-2015-0006.

FOR FURTHER INFORMATION CONTACT: Charles Nimick, Business and Foreign Workers Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240-721-3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

On May 29, 2018, DHS published a notice of proposed rulemaking (NPRM or proposed rule) titled "Removal of International Entrepreneur Parole Program" in the Federal Register (83 FR 24415). That rule proposed to revise DHS regulations governing adjudication of significant public benefit parole requests made by certain noncitizen entrepreneurs of start-up entities in the United States. Specifically, if finalized, the rule would have removed the international entrepreneur parole program (IE parole program) from DHS regulations. In response to the May 2018 NPRM, DHS received 892 comments during the 30-day public comment period. The overwhelming majority of commenters opposed the proposed removal of the IE parole program.

Approximately 8 percent of commenters expressed support for the rule's removal of the IE parole program from the regulations and/or offered suggestions for improvement. Nearly 87 percent of commenters expressed general opposition to the rule that would have removed the IE parole program, without suggestions for improvement. Around 3 percent of commenters expressed mixed opinions on the rule and 2 percent were out of scope. Comments may be reviewed at the Federal Docket Management System (FDMS) at http://www.regulations.gov, docket number USCIS-2015-0006.

Commenters who opposed the rule did so primarily on the basis that removing the IE parole program would lead to unrealized economic benefits, damage U.S. innovation and entrepreneurship, and harm noncitizen startup founders. Additionally, commenters disagreed with DHS's assertion that parole is not an appropriate mechanism for a program promoting entrepreneurs, and they further argued that IE parole is within the scope of DHS parole authority. Commenters also stated that DHS should not, as one of the proposed means of winding down the program, automatically terminate IE parole granted to individuals, arguing this would lead to a significant burden to entrepreneurs, their startup entities, and the individuals employed by their businesses. In addition, commenters believed the May 2018 NPRM's statutory and regulatory reviews, required

by Executive Orders 12866 and 13563, did not take into account the full costs of removing the IE parole program. They argued that there would be significant costs from losing additional funding from current and future investors, as well as costs related to the viability and continued operation of the start-up entity. Commenters also felt the May 2018 NPRM did not fully consider costs to small businesses, nor did it provide less onerous alternatives, as required by the Regulatory Flexibility Act (RFA).

The NPRM was issued subsequent to Executive Order 13767, "Border Security and Immigration Enforcement Improvements," issued on January 25, 2017. This Executive Order had directed Federal agencies to "ensure that parole authority under section 212(d)(5) of the INA is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole."

On February 2, 2021, President Biden issued Executive Order 14010, "Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border." This Executive Order revoked Executive Order 13767. In addition, on February 2, 2021, President Biden issued Executive Order 14012, "Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans." This Executive Order directed Federal Agencies to "identify any agency actions that fail to promote access to the legal immigration system."

In light of the recent Executive Orders, DHS has reviewed the May 2018 NPRM and public comments that were overwhelmingly in opposition to the NPRM and has decided to withdraw that NPRM. DHS believes that the existing regulations in 8 CFR 212.19 appropriately guide the exercise of discretion, on a case-by-case basis, when

considering requests for parole filed by noncitizen entrepreneurs. Such applications will

continue to be decided consistent with the Secretary's statutory authority to grant parole

on a case-by-case basis when it is determined that the applicant will provide a significant

public benefit and that the applicant merits a favorable exercise of discretion. DHS

further believes that continuing to administer the IE parole program, in accordance with 8

CFR 212.19, and withdrawing the May 2018 NPRM, is consistent with the

Administration's goal of better ensuring that all avenues available under the law remain

viable options for those seeking to come to the United States, including qualified

entrepreneurs who would substantially benefit the United States by growing new

businesses and creating jobs for U.S. workers. Therefore, for all the reasons discussed

above, DHS is withdrawing the May 29, 2018, NPRM that would have removed the IE

parole program from DHS regulations.

Authority

Executive Order 14010, "Creating a Comprehensive Regional Framework to

Address the Causes of Migration, to Manage Migration Throughout North and Central

America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United

States Border"; 8 U.S.C. 1182(d)(5).

Executive Order 14012, "Restoring Faith in Our Legal Immigration Systems and

Strengthening Integration and Inclusion Efforts for New Americans."

Alejandro N. Mayorkas

Secretary,

U.S. Department of Homeland Security.

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